IN THE

Supreme Court of the United States

OCTOBER TERM, A.D., 1959.

No. 861

JOSEPHINE DAVIDITIS, also known as JOSEPHINE DAVIS, STELLA C. DAVIS, and BETTY HORRIGAN,

Petitioners,

vs.

THE NATIONAL BANK OF MATTOON, Mattoon, Illinois, a banking corporation, WAYNE JOSEPH O'BRYAN, and JUNE ALBERTA O'BRYAN, and RAY M. FOREMAN,

Respondents.

Consolidated With

JOSEPHINE DAVIDITIS, also known as JOSEPHINE DAVIS, STELLA C. DAVIS, and BETTY HORRIGAN,

Petitioners,

vs.

HONORABLE CASPER PLATT, Judge of the United States District Court for the Eastern District of Illinois,

Respondent.

Petition for Writ of Certiorari To The United States Court of Appeals For The Seventh Circuit.

JOSEPHINE DAVIDITIS, also known as JOSEPHINE DAVIS, PRO SE,
and
STELLA C. DAVIS, Pro Se,
4916 N. Magnolia Avenue,
Chicago, Illinois,
BETTY HORRIGAN, Pro Se,
1303 Carmen Avenue,
Chicago, Illinois.

Oral Argument Requested.

INDEX.

	PAGE
Report of Opinions	2
Jurisdiction	3
Questions presented	5
Statement of Case	8
Argument	15
Conclusion	22
Appendix "A"	23
Appendix "B"	28

List of Authorities.

Aztec Mining Co. v. Ripley, N. M. 1894, 14 S. Ct. 236, 151 U.S. 79, 38 L. ed 80	4
Bowles v. Simon, C.C.A. Ind. 1944, 145 F 2d 334	4
Brown v. Duffin, C.C.A. Ky. 1926, 13 F 2d 708	15
Dickerman v. Northern Trust Co., 176 U.S. 181, 20 S. Ct. 311, 44 L. ed. 423	16
Ferrari v. U.S.C.A., Cal. 1948, 169 F. 2d 353	20
In Re Shaffer's Estate, 101 NE. 2d 953, 344 Ill. App. 608	15
In Re Quarles, Ga. 1895 15 S. Ct. 959, 158 U.S. 537, 39 L. ed. 1080	18
Jencks v. U.S., Supreme Court Report Vol. 353, P. 657	19
Kelly v. Jackson, 6 Pet. 632	21
Potter v. U.S. 438, 15 S. Ct. 144, 49 L. ed. 214	21
Spies v. Nat'l. City Bank, 174 N.Y. 222, 225, 66 N.E. 736, 61 L.R.A. 193	15
U.S. v. Guaranty Trust Co. of New York, 293 U.S. 340, S. Ct. 221, 79 L. ed. 415, 95 A.L.R. 651	15, 21
Wilkerson v. McCarthy, 336 U.S. 53, 57	21

CONSTITUTIONS & STATUTES.

U.S.C. 5—	
sec. 139 F	26, 29, 30
U.S.C. 18—	
sec. 401(1) and (2)	13, 14, 20
sec. 241, 493, 1341	21, 25, 26
sec. 1005, 203, 76	29, 30
sec. 51, stat. 3508	18
U.S.C. 28—	
sec. 454	20
sec. 1254(1) and (3)	4
sec. 1257(2) and (3)	4
sec. 1331, 1339	25, 26, 29, 30
sec. 1348, 1349	25, 26, 28, 30
Rule 56 (1895)	17, 26, 29, 30
Part V, Rule 19(1) (b)	4
U.S. Rev. Stat. 5394, 18 U.S.C.A.	20
Const. 14th Amend.	16
Const. 4th Amend.	16
The Anti Moiety Act of June 22, 1874 C. 391	17, 18
Wilfull Act of Congress 1882	21

IN THE

Supreme Court of the United States

OCTOBER TERM, A.D., 1959.

No.

JOSEPHINE DAVIDITIS, also known as JOSEPHINE DAVIS, STELLA C. DAVIS, and BETTY HORRIGAN,

Petitioners,

vs.

THE NATIONAL BANK OF MATTOON, Mattoon, Illinois, a banking corporation, WAYNE JOSEPH O'BRYAN, and JUNE ALBERTA O'BRYAN, and RAY M. FOREMAN,

Respondents.

Consolidated With

JOSEPHINE DAVIDITIS, also known as JOSEPHINE DAVIS, STELLA C. DAVIS, and BETTY HORRIGAN,

Petitioners,

vs.

HONORABLE CASPER PLATT, Judge of the United States District Court for the Eastern District of Illinois,

Respondent.

Petition for Writ of Certiorari To The United States Court of Appeals For The Seventh Circuit.

To: Honorable Earl Warren, Chief Justice, and Associate Justices of The Supreme Court of The United States.

Josephine Daviditis, also known as Josephine Davis, Stella C. Davis, and Betty Horrigan, Petitioners, Pro Se, pray that a Writ of Certiorari issue to review the Or-

ders made and entered by the United States Court of Appeals for the Seventh Circuit on January 22, 1959, affirming the Order of the District Court for the Eastern District of Illinois. The Court of Appeals also denied the Petition For Writ of Mandamus, Motion For Leave To File Supplemental Evidence and To Present Confidential Evidence at Hearing, Motion that this Court Order an Investigation of Defendants-Appellees to show cause why they did not follow the Rules of Civil Procedure in serving their Briefs and Motions To Dispense With Printing of Briefs on appellants.

The Court of Appeals denied the appellants permission to amend their complaint, denied claims and demands which Court had not specifically hereinbefore described and which demands were for an Order to go before the federal grand jury on all issues and to institute disbarment proceedings against appellee, Ray M. Foreman, his attorney, Clyde Meachum and others guilty of Collusion.

The Court of Appeals did not set the amount of security on appeal For Review on Certiorari as pleaded in appellant's Motion filed in said court on April 6, 1959.

On February 12, 1959, the U. S. Court of Appeals for the Seventh Circuit denied The Petition For Rehearing, and the petitioners assert the following:

REPORT OF OPINIONS BELOW.

The opinion of the United States Court of Appeals for the Seventh Circuit is set forth in this Petition as "Appendix A."

The United States District Court for the Eastern District of Illinois, being the Trial Court issued a Memorandum which is set forth in this Petition as "Appendix B."

JURISDICTION.

The Order of the District Court for the Eastern District of Illinois was entered on July 24, 1958 (R. 83-86) dismissing the plaintiff's complaint, and on September 15, 1958, Petition To Add New Prima Facie Evidence In Cause Of Action By Certificate of Forgery and Affidavit In Support Thereof was filed in the District Court (R. 32-37a). Whereas on September 26, 1958 (R. 37a) D. H. Reed, Clerk of the District Court, forwarded the above mentioned documents to the U. S. Court of Appeals for The Seventh Circuit upon instructions of the trial court for their decision.

On August 12, 1958, the plaintiffs filed their Notice of Appeal, and on October 17, 1958, filed their Brief and Appendix in the United States Court of Appeals for the Seventh Circuit. On January 22, 1959, the Court of Appeals affirmed the Order of dismissal of the complaint, denied the plaintiffs-appellants the right to amend their complaint supported by (R. 32) new evidence and all other relief as pleaded in their causes of action and also denied Petition for Writ of Mandamus filed on December 29, 1958. Petitions for Rehearing were denied on February 12, 1959, and Honorable Duffy, Chief Judge filed his Opinion.

This petition is filed within ninety days of entry of Order on Appeal, affirming dismissal of their complaint and denying the Petition For Writ of Mandamus and denial of Petitions for Rehearing and accordingly the jurisdiction of this Court to review the Orders of the United States Court of Appeals for the Seventh Circuit by a Writ of Certiorari is invoked under Title 28

U.S.C. section 1254 (1), (3) and 1257 (2), (3), also Rule 56 of 28 U.S.C., 1895, and Part V, Rule 19 (1) (b) of the Revised Rule of the Supreme Court of the United States, U. S. Const. Amend. XIV, sec. 1. See *Aztec Mining Co.* v. *Ripley*, N.M. 1894, 14 S. Ct. 236, 151 U.S. 79, 38 L. ed. 80; *Bowles* v. *Simon*, C.C.A. Ind. 1944, 145 F 2d 334, and *James Dickson Farm Mortgage Co.* v. *Harry*, Ill. 1926, 47 S. Ct. 308, 273 U.S. 119, 71 L. ed. 569; *Hardy* v. *Collins*, D.C. Cal. 1948, 80 F. Supp.; *Rosenblum* v. *Rosenblum*, 1943-42 New York, 52 L. ed., 626, 181 Misc. 78 and *In Re Quarles*, Ga. 1895, 15 S. Ct. 959, 158 U.S. 537, 39 L. ed. 1080; U.S.C. 28, Rule 56 of 1895; U.S.C. 5, sec. 139 F. and U.S.C. 18, sec. 241, 1707, 1708.

QUESTIONS PRESENTED.

These cases involve the following actions:

1. Complaint To Set Aside Fraudulent Conveyance Under Rule 18 (b) of Civ. P. A. with jurisdiction based on U.S.C. 28, secs. 1331, 1348, 1349, 1339, also U.S.C. 18, secs. 493, 1005, 241, U.S.C. 5, sec. 139 F and Rule 56 U.S.C. 28 of 1895, case No. 1612-D-EST and appeal No. 12439. This action was brought to set aside and void the fraudulent conveyance of a farm situated in Champaign County, State of Illinois, owned by petitioner's late father and husband, William Daviditis, also known as William Davis, and for judgment against the respondents, The National Bank of Mattoon, a banking corporation, Wayne Joseph O'Bryan and June Alberta O'Bryan, and Ray M. Foreman, former Assistant U.S. Attorney for said federal district of Illinois.

Several checks on which the indorsements were forgeries were given in consideration for the conveyance of this property by respondents the O'Bryans, and O.K.'d by the respondent, The National Bank of Mattoon, also a fiduciary, and photostats sent via U.S. Mails (with intent to conceal and defraud the petitioners as genuine signatures) by respondent, Ray M. Foreman and the respondent bank and others complained about to the Federal Bureau of Investigation in the year of 1950, and thereafter, up to and including the present date. The complaint was supported by undisputed and uncontradicted evidence (Exhibits "A" and "B", "C", "D" and "G") annexed to their complaint and pleadings. (Tr. 1-11, app. 9a-12a, 32-37a).

2. Petition for Writ of Mandamus No. 12527 involves an action in the U. S. Court of Appeals wherein petitioners request the Court for an Order to compel Honorable Casper Platt for an Order to issue to the National Bank of Mattoon and to The Public Debt Bureau, 536 S. Clark Street, Chicago, Illinois, Office of Commissioners and others who have access to U.S. Savings Bonds microfilm, records, etc., for photographing, inspecting and for court uses in their cause of action. Petition was supported by Exhibits showing Honorable Casper Platt's prior interest in causes of action in the year of 1953.

The questions presented by the petition are set heretofore: Whether a Trial Court commits reversible error in dismissing Complaint and the United States Court of Appeals for The Seventh Circuit affirms the dismissal, denies appellants the right to amend their complaint supported by new prima facie evidence, denies demands for an Order to go before the federal grand jury on all issues and to institute disbarment proceedings against appellee, Ray M. Foreman, his attorney, Clyde Meachum and others guilty of collusion, also denied Petition for Writ of Mandamus and denied Petitions for Rehearing on both causes of action when:

1. The Court had erroneously ignored undisputed evidence of Forgery As Established by Uncontradicted Evidence. And Payment by a Bank to the Holder of a Check upon which the name of the endorser is forged is simply no payment at all.

2. State Courts and Federal Courts Have Concurrent Jurisdiction Where Actions are In Personam For Recovery of Money, Property, or Injunction.

3. No Fraud Is More Odious Than An Attempt To Subvert the Administration of Justice, and the charges

of Fraud as such set forth is a denial of "Due Process of the Law" and Violation of the 4th and 14th amendments to the Constitution.

4. It is the Right of Every Private Citizen of the United States to Inform an F.B.I. Agent, Treasury Agent and etc. of violation of Internal Revenue Laws or Other United States Laws.

5. Falsifying a Record is a high offense against public justice.

6. Personal bias as a prerequisite to disqualification of a Judge is an attitude of extrajudicial origin.

7. It was the Duty of the District Judge and Judge of the U.S. Court of Appeals for the Seventh Circuit to Hold Defendants-Respondents in Contempt of Court pursuant to U.S.C. 18, sec. 401 (1) and (2).

8. The District Courts have original jurisdiction of any action under the direction of any federal officer pursuant to U.S.C. 28 sec. 1348. Also exclusive jurisdiction of crimes committed by bank officers and agents.

9. Use of U. S. Mails in furtherance of Scheme To Defraud.

10. In absence of Counter-Affidavits Averments contained in Affidavits and Supported by Exhibits and Evidence are taken to be true as to Facts Stated Therein.

11. Mandamus in the Proper Means for Testing the Legality of These Orders by the Trial Judge.

12. Using Appellees' "Forms of Law in violation of U.S.C. 28, sec. 1443 (1)" rights which appellants could not enforce in any court in Illinois, in some of the U. S. Courts including the Supreme Court of U.S.A.

STATEMENT OF FACTS.

This action was brought to set aside a fraudulent conveyance under Rule 18 (b) of Civ. P. A. of a farm situated in Champaign County, State of Illinois, and owned by the appellants' father and husband, William Daviditis, also known as William Davis, now deceased. Several checks were given in consideration of this conveyance by the defendants, Wayne Joseph O'Bryan, and his wife, June Alberta O'Bryan; O.K.'d by the defendant, The National Bank of Mattoon, who were fiduciaries and O.K.'d the signatures of William Daviditis on the above mentioned checks Exhibits "A" and "B" (Rec. pp. 1-4) and made payment of same in 1946.

On January 17, 1952, Ray M. Foreman, Assistant U. S. Attorney for Eastern Federal District of Illinois, and defendant, sent via U. S. Mails photostatic copies of the disputed checks (Exhibits "A" & "B") together with his letter (App. 16a-17a) regarding the checks and the conveyance covered by same and a statement by M. F. Beltrend, Vice-President of the defendant, The National Bank of Mattoon. (App. 17a-20a)

On June 4, 1958, the Court entered an Order on Motion of Plaintiffs for change of Venue. (App. 26a-Rec. pp. 67-70) Motion allowed and File ordered transferred to Honorable G. Juergens, East St. Louis, Ill., District Court.

On April 16, 1958, Matilda Marion, of San Francisco, California, filed her Petition to Intervene and To Become a Party Plaintiff. (Rec. pp. 24-28)

The Order appealed from was entered on July 24th and filed on July 25, 1958, A.D., together with a Memorandum

by Honorable William G. Juergens; District Court Judge, dismissing plaintiffs' cause of action for lack of jurisdiction of subject matter. (App. 22a-25a) and a Notice of Appeal was filed on August 12, 1958. (App. 27a-28a)

During the year of 1946, the appellee, The National Bank of Mattoon O.K.'d forged endorsements (Exhibits "A" and "B") appended to appellants' complaint (App. 9a-13a) said checks given in consideration to William Daviditis, also known as William Davis, deceased, conveying all his property, real and personal, covering the S½ of the SE¼ except the East 41.28 acres thereof, and the SE¼ of the SW¼ and the East 5 acres of the SW¼ of the SW¼ all in Sec. 36 Twp. 17 N.R. 7 East of the 3rd P.M., in Champaign County, Illinois, subject to one half of oil, gas and mineral rights, together with all rents, issues and profits thereof, whereby the defendants, Wayne Joseph O'Bryan and June Alberta O'Bryan, husband and wife in joint tenancy and who did give (Exhibits "A" & "B", namely blow-ups of checks annexed to complaint) plaintiffs' father and husband, deceased, checks in the amount of $3,000.00 dated 2/15/46 on The First National Bank of Tuscola, Ill., and a check of The Equitable Life Assurance Society of U.S. on The Champaign Nat'l. Bank dated 2/15/46, in the amount of $12,769.80 for Appl. No. 793 & Iner. 48560 O'Bryan, Champaign, County, Ill., and both checks payable to William Daviditis, now deceased.

The Nat'l. Bank of Mattoon was in a fiduciary position, first as Trustee, then Conservator and finally through Fraud perpetrated upon the appellants, aided by defendant, Ray M. Foreman and others named in their pleadings, became Administrator of the estate of William Daviditis nee William Davis.

On 1/17/52, defendant, Ray M. Foreman who was an Assistant U. S. Attorney at the time and playing a dual role of a fiduciary both to the appellants and the appellee, The National Bank of Mattoon, did send via U. S. Mail the appended photostat copies of the above mentioned checks and a letter and a Statement of M. F. Behrend, Vice-Pres. of The National Bank of Mattoon—said letter of Foreman's Re. Estate of William Daviditis. (App. 16a-20a) The letter dated 1/7/52 to Mrs. Betty Horrigan, from E. C. Bauer, Trust Officer of appellee bank portrays the dual role of appellee, Ray M. Foreman, and the fraud and deceit of the National Bank of Mattoon upon the appellants (App. 20a) who were complaining to the F.B.I., prior to the death of William Daviditis or any Probate Proceedings in the year of 1950 about the appellees, with the exception of Ray M. Foreman, who came into a fiduciary position as the result of this contact with the F.B.I. in 1950, and who used his high federal position to conspire and to cover up fraud; violations of the National Bank Act; Internal Revenue Code and many other violations against both our federal and state laws. (Rec. pp. 33-38-40)

The appellants allege that the signatures of their late father, and husband, William Daviditis, also known as William Davis is not his true signature and appellant, Stella C. Davis further substantiates their allegations by the Appended Exhibits, "G"; which is a Certificate of Forgery by Anne Shaw of Toronto, Ont., Canada (App. 32) and further proof of irregularity of said property conveyance by Exhibit "A4" letter of F. J. Skogvold, Admin. Assistant of the New York (main office) of The Equitable Life Assurance Society of U. S. dated 4 20/53 and sent to Mrs. Stella C. Davis. (App. 21a) The Certificate of Forgery appended to the Petitio

To Add New Prima Facie Evidence In Cause of Action By Certificate of Forgery and Affidavit by Stella C. Davis in Support Thereof were filed in the District Court of the Eastern District of Illinois on September 15, 1958, and not ruled on by that court but sent to the U. S. Court of Appeals for the 7th Circuit on September 26, 1958, by D. H. Reed, clerk of said court. (App. 37a) Whereas the Exhibit "A4" above mentioned was annexed to Affidavit of Stella C. Davis filed in the court on May 5, 1958 (Rec. pp. 48-49) and Betty Horrigan likewise filed her Affidavit on April 28, 1958 regarding the forged signatures on checks given in consideration of this fraudulent conveyance and other violations of our laws. (App. 44, 46)

This action was brought by petitioners, Pro Se, in the U. S. Court of Appeals For The Seventh Circuit on Petition For Writ of Mandamus to compel Honorable Casper Platt issue an Order to the National Bank of Mattoon, and to the Public Debt Bureau of the U. S. Treas. Dept., Chicago, Illinois for Production of Documents and to Office of the Commissioners, to permit plaintiffs to inspect and get copies and photostats from the account of their late father and husband, William Davidtis, also known as William Davis, of 1005 N. 10th Street, Mattoon, Illinois, of all lost, cancelled, destroyed, transferred or retired U. S. Savings Bonds and U. S. Securities in his name alone, with co-owners or beneficiaries, and also the respondent's bank's records and microfilm wherein petitioners have discovered fraud and falsification of bank records and goverment bonds.

In the year of 1953, petitioner Stella C. Davis, went personally to Honorable Casper Platt in the U. S. District Court and Post Office building in Danville and asked the District Judge for permission to file the annexed "A" Exhibit which is a photostatic copy of Petition of Stella

C. Davis to Honorable Casper Platt dated June 18, 1953, To Go Before the Federal Grand Jury On Charges She Wants To Present Against Ray M. Foreman, Assistant United States Attorney For The Eastern Federal District of Illinois. There were other complaints to Honorable Platt, District Judge, regarding Ray M. Foreman, The National Bank of Mattoon, and others involved in this Conspiracy, Collusion and Fraud.

Honorable Casper Platt ignored petitioner's Stella C. Davis' requests to go before the federal grand jury on charges against Ray M. Foreman, yet, Honorable Platt sat in the District Court in Danville, Illinois and passed judgment on cases No. 1502 D, and 1533-D and on 1612-D with prior interest and knowledge of said complaints against the defendants, among of whom was his former law clerk and associate and who is a legal partner of Ray M. Foreman and who was also representing The National Bank of Mattoon, Ray M. Foreman and The Wayne O'Bryans in their causes of action, at the Hearing on January 13, 1959 in U. S. Court of Appeals for Seventh Circuit.

The appellee, Ray M. Foreman, violated U. S. 28 Sec. 8(c) Civ. R. of F.P., and rules 8(c), (d), and 16(j) of the U. S. Court of Appeals by not servicing 3 copies of the appellees' brief on the appellants and the said appellees caused a false affidavit of service to be filed in the U. S. Court of Appeals for the Seventh Circuit on October 31, 1959, by stating that he served copies of Motion to Dispense with Printing of Brief, and Brief of Defendants-Appellees upon the Plaintiffs-Appellants by mailing a copy thereof to said appellants by certified mail, return receipt requested. These documents were never received by the appellants and this constitutes falsification of court records.

The appellants were forced to go into court on oral arguments without appellees' briefs and thereby were denied the right to file a reply brief as result of this fraud on them.

The appellants asked in court during the Hearing on January 13, 1959 for Clyde Meachum, appellees' attorney to produce the signatures of the appellants and said attorney stated that he had them and upon further demands for same made contradictory statements regarding their signatures on the return receipt. Honorable Duffy, chief judge told Mr. Meachum to produce the return receipt and signatures, at Hearing on January 13, 1959, but Mr. Meachum did not and appellees' attorney, Clyde Meachum was in violation of U.S.C. 18, sec. 401(1) and (2) for misbehavior while court was in session by going to the attorney's room in said U. S. Court of Appeals and tried to make a deal with appellants regarding order of said court of service of appellees' briefs and Proof of Service regarding same.

On June 3, 1957, A.D. Honorable Casper Platt dismissed the plaintiffs' causes of action No. 1592-D, Davis and Horrigan v. Ray M. Foreman, Kenneth Clapper, and Clyde Meachum, attorneys and 1553-D, Davis-Davis & Horrigan v. The National Bank of Mattoon, Mattoon, Illinois, without "Notice and Hearing" and on June 13, 1957, plaintiffs filed their Petitions to Review and Vacate Orders of the District Judge filed June 3, 1957 and Affidavit in Support thereof, in which Petitions plaintiffs asked for the District Court to appoint them an attorney in their causes of action because they could not get an attorney to represent them, against defendants, Ray M. Foreman, Kenneth Clapper, and Clyde Meachum, of whom several of them were federal attorneys, and who were guilty of malfeasance and malpractice and collusion with the

National Bank of Mattoon, Mattoon, Illinois as evidence with plaintiffs Exhibits annexed to their pleadings in said cause of action. (Case 12112 App. 34a-38a, 40a, 16a-27a.) (Case No. 12111 app. 21-15, 17-26, 29-32)

Mandamus is the Proper Means For Testing the Legality of Orders in cases No. 1502-D, 1533-D and 1612-D and that it was the Duty of the District Judge To Hold Defendants in cases 1502-D, 1533-D and 1612-D, pursuant to Title 18, U.S.C.A., sec. 401(1) and (2) in Contempt of Court due to the obstruction of justice by collusion and conspiracy of respondent in perpetrating a continuous Fraud upon the Courts.

ARGUMENT.

I.

The court had erroneously ignored undisputed evidence of forgery by uncontradicted evidence and payment of a bank to the holder of a check upon which the name of the endorser is forged is simply no payment at all and was made with intent to avoid duty of debt.

That the appellee, The National Bank of Mattoon, of which the Decedent, William Davidlitis was a long time customer of the Bank of Mattoon as well as in other positions of trust with said bank and over a period of thirty-five years there wasn't any excuse for the forged endorsements being O.K.'d by the appellee and cleared through Fed. Reserve Bank of Chicago.

U. S. Guaranty Trust Co. of New York, 293 U. S. 240, 55 S. Ct. 221, 79 L. ed. 415, 95 A.L.R. 651.

Spies v. *Nat'l. City Bank*, 174 N.Y. 222, 225, 66 N.E. 736, 61 L.R.A. 193.

II.

Both State and Federal Courts have concurrent jurisdiction of actions in personam for recovery of money and property.

Since the appellees, The National Bank of Mattoon, and Ray M. Foreman were fiduciaries, but perpetrated Fraud, concealment, conspiracy and other violations of state and federal laws on appellants, then the federal courts have exclusive jurisdiction concurrent with that of state for recovery of income etc., (32-32a-37a. Appx.) (Appx. 1-6) *Re Shaffer's Estate* 101 N.E. 2d 953, 344 Ill. App. 608.

Brown v. *Daffin*, C.C.A. Ky. 1926, 13 F 2d 708.

III.

The charges of Fraud as such set forth is a denial of "due process of the law and violation of the 4th and 14th Amendments to the Constitution. No fraud is more odious than an attempt to subvert the administration of justice.

This action involves a former Officer of the U. S. and Justice Department, who at the time mentioned in the plaintiff-appellants' complaint was illegally representing both the appellee, The National Bank of Mattoon, and the appellants at the same time unbeknown to them and conspiring with defendant appellee bank to get themselves in this fiduciary position to cover up forgeries, fraud, embezzlement and other irregularities involving appellees, The National Bank of Mattoon, and the Wayne Joseph O'Bryans in the Fraudulent Conveyance of a farm located in Champaign County, State of Illinois, wherein the appellee bank O.K.'d large checks for payment of forged endorsements. (App. 9a-13a, 32, 32-37a)

The appellees, their attorneys and others who aided them in this Fraud and criminal conspiracy subverted the administration of justice by placing the appellants into legal duress, disability and legal trap, the results are denial of Constitutional rights, for recovery of money and property and legal redress. The rulings in courts of States of Illinois and California disregarding Exhibits, Affidavits and that the petitioners had to represent themselves to compete with attorneys and federal and state officials and still be accorded biased and prejudiced justice after their efforts and even petitions filed in various courts asking the courts to appoint them an attorney as they were unable to get one. The "Forms of Law" that the attorneys used to subvert the administration of justice and caused opinions to be rendered in which the main criminal allegations and fraud were bypassed for minor issues.

Dickerman v. *Northern Trust Co.*, 176 U.S. 181, 20 S. Ct. 311, 44 L. ed 423.

IV.

It is the right of every private citizen of the United States to inform an F.B.I. Agent, Treasury Agent, etc., of violations of Internal Revenue Laws or other U.S. Laws under Rule 56 of 1895 U.S.C., 28 and The Anti Moiety Act of June 22, 1874 C 391.

The U.S. Court of Appeals and the trial court ignored the allegations that the plaintiffs-appellants complained to the Federal Bureau of Investigation about the defendants-appellees and others who aided and abetted them in perpetrating a continuous criminal Fraud and Conspiracy upon them.

That as the result of this contact with the F.B.I., an agent of this agency referred appellant, Stella C. Davis, to Assistant U.S. attorney, Ray M. Foreman in his official capacity in the year of 1950. That as such official of the U.S. Attorney's office, Ray M. Foreman corrupted this office by conspiring, aiding and legally protecting the individual and corporations complained about to the F.B.I., in covering up falsification and reissuance of U.S. Savings and Treasury Bonds, irregular and fraudulent Income Tax, large check forgeries which said defendant bank O.K.'d for forged indorsements as shown by Exhibits and certificate of Forgery (A, B, C, D, pp. 2 & 3 of transcript and 10a, 11a, 11b—p. 32 f brief and app.), as well as other criminal violations of our federal and state laws. (brief-app. 11, 3, 12, 13, 16a, 17a, 18a, 19a, 20a, 21a).

The Court of Appeals on January 22, 1959, stated, "Also, Rule 56, Federal Rules of Civil Procedure, pertaining to summary judgments, cannot be relied on by plaintiffs to confer jurisdiction in this cause, Is In Error, because in appellants' pleadings and briefs they cite

In Re Quarles, Ga. 1895 15 S. Ct. 959, 158 U.S. 537, 39 L. ed. 1080 (Tr. 170-177) and U.S. Rev. Stat. 5508, Title 18, sec. 51 and The Anti Moiety Act of June 22, 1874. (Pet-Re-Hearing p. 10) which do confer jurisdiction:

The petitioners went to the following Field Offices of the F.B.I. in Chicago, Milwaukee, Urbana and Springfield, Illinois in the year 1950. A special agent of the F.B.I. in the Springfield, Illinois office around 12:30 p.m. to 1 p.m. on or about October 31 or November 1, 1950 referred petitioner, Stella C. Davis to Ray M. Foreman, Assistant U.S. Attorney, in Danville, Illinois, and told her to contact him regarding her complaints which she did on December 9, 1950, after her return from the State of California.

In almost every cause of action, both on the state and federal levels the plaintiffs have been ignored on these vital issues and as the results of these complaints to the F.B.I., the U. S. Attorney's office in Danville, Illinois through Ray M. Foreman (rec. p. 26, 33, 38, 30, & 40: Brief-App. 4, 5, 20a) entered their causes of action:

1st. On the municipal and county level of Coles County, Illinois, and San Francisco County, California.

2nd. On the federal level through the U. S. District Attorney's office in Danville, Illinois by Ray M. Foreman, aided at a later date by Clyde Meachum.

Thus by using these levels on entering the petitioners' causes of action Ray M. Foreman, District Attorney perpetrated criminal fraud, conspiracy, deceit and used "Forms of Law" to render the plaintiffs-petitioners helpless and without any legal redress except (1) to petition this Honorable Court for a Petition For Writ of Certiorari to Review the Decisions of the U. S. Court of Appeals in all of the causes mentioned in the Opinion

of the Trial Court and the Court of Appeals for The Seventh Circuit:

(2) That this Honorable Court issue an Order to the Justice Department to the Federal Bureau of Investigation that they confirm the statements the petitioners have made in all of the courts both on the state and federal levels wherein the defendants have committed perjury and subornation of perjury and that the Special F.B.I. agent of the Springfield, Illinois office of 1950, come forward in open court and verify that he did advise Stella C. Day petitioner in 1950 to have an official conference with Ray M. Foreman. That the petitioners, only want information that they had complained about the defendants to their field offices and to help them in making their cause of actions to go before the federal grand jury on all criminal issues and to have the courts institute disbarment proceedings against the attorneys guilty of collusion, fraud and conspiracy. That the petitioners cannot enforce any rights in a civil cause and now want to have criminal charges against some of the defendants who made not only false affidavits but committed more serious crimes against the laws of the United States and the respective states mentioned in their pleadings.

The petitioners state that they do not want such orders as this Honorable Court issued in *Jencks* v. *U. S.*, Supreme Court Reporter Vol. 353, P. 657 to produce any records for inspection, only statements and proof that they are telling the truth about going to the F.B.I. and as a result, Ray M. Foreman, and by conspiracy aided other defendants and others complained about to the F.B.I. and made use of the information obtained from said agency, other federal and state agencies to use against the petitioners with criminal intent.

Nowhere in the history of the United States with its Constitution and "Bill of Rights" were the rights of individuals so violated and abused as by an officer of the U. S. Courts and U. S. District Attorney, conspiring with a National Bank of Mattoon, Mattoon, Illinois, both who obtained that fiduciary position by fraud, Collusion and Deceit.

V.

Falsifying a record is a high offense against Public Justice.

U. S. Rev. Stat. 5394, 18 U.S.C.A. 1506.

VI.

Mandamus is the proper means for testing the legality of these orders by the trial judge.

Pursuant to Title 28 of U.S.C.A. sec. 454, any judge or justice of the United States shall disqualify himself where he has substantial interest or material witness or connected with any party or his attorney as to render it improper, in his opinion for him to sit on the trial or appeal or other proceedings.

Personal Bias as a prerequisite to disqualification of a Judge is an attitude of extrajudicial origin (*Ferrari* v. *U.S.C.A.*, Cal. 1948, 169 F 2d, 353.)

VII.

It was the duty of the District Judge and Judge of Court of Appeals to hold defendants-respondents, in cases 1502-D and 1533-D and 1612-D, pursuant to Title 18 U.S.C.A., sec. 401 (1) and (2) in CONTEMPT OF COURT due to the obstruction of justice by the collusion and conspiracy of the respondents in perpetrating not only a Fraud upon the District Court but upon this Honorable Court.

VIII.

Federal Courts have exclusive jurisdiction of crimes committed by national bank officers and agents, and 'wilful' in Act of Congress of 1882, implies a knowledge and purpose to do wrong.

The Prima Facie Evidence by Certificate of Forgery (Exhibit "G") and the Exhibits "A" and "B" appended to the complaint and other Exhibits implies and proves the purpose to do wrong and to conceal forgeries, and other irregularities by said appellees. (App. 32, 32a-37a) *Kelly* v. *Jackson*, 6 Pet. 632; *U.S.* v. *Guaranty Trust Co. of New York*, 293 U.S. 340, S. Ct. 221, 79 L. ed. 415, 95 A.L.R. 651; *Potter* v. *U.S.*, 438, 15 S. Ct. 144, 49 L. ed. 214.

IX.

Use of U. S. Mails in furtherance of scheme to defraud.

The annexed Exhibits "C", "D", "E", "A", "B", "A1", "A3", "A2", and "A" to the pleadings, motions, petitions and Petition To Intervene by Matilda Marion portray the use that the appellees put the U.S. Mail to carry on a fraud upon the appellants. (App. 16a-20a) (Rec. pp. 1-4, 48-49, 29-32) Title 18, sec. 1341.

X.

In the absence of Counter-Affidavits averments contained in affidavits and supported by exhibits and evidence by plaintiffs are taken to be true as to facts stated therein.

Wilkerson v. *McCarthy*, 336 U.S. 53, 57.

The annexed Exhibits to the Complaint and Affidavits have not been disproved by appellees, therefore they are taken to be true. (Rec. pp. 1-4, 29-32, 24-26, 44-46, 112-114)

CONCLUSION.

It is respectfully submitted that the record in these cases presents Prejudicial error, entire record (Petition for Writ of Mandamus not included) covered by Perjury and Fraud and which presents Jury Questions, and issues of such basic importance to the furtherance of justice in the Courts of the United States wherein petitioners were complainants to the F.B.I. and other Federal Agencies and respondents, attorney of U.S. and Justice Department involved with laymen and a National Bank as administrator and the federal attorney, its attorney even though the petitioners complained about said bank and the other respondents to the F.B.I. That the decisions of the United States Court of Appeals for the Seventh Circuit be reversed, and the Petition for Writ of Mandamus be allowed and the complaint be amended, and the respondents be tried by a grand jury and the attorneys who conspired against petitioners mentioned in their pleadings stand disbarment proceedings and criminal charges and that the Federal Bureau of Investigation make statements in court that the petitioners complained to them since 1950, thereon, up to and including the present date. That the forgeries of large checks which defendant bank O.K.'d for indorsements be made a part of the criminal proceedings thereon.

Respectfully submitted,

JOSEPHINE DAVIDITIS, also known as
JOSEPHINE DAVIS, Pro Se and
STELLA C. DAVIS, Pro Se,
4916 N. Magnolia Avenue,
Chicago, Illinois,

BETTY HORRIGAN, Pro Se,
1303 Carmen Avenue,

APPENDIX A.

IN THE

UNITED STATES COURT OF APPEALS

For The Seventh Circuit.

SEPTEMBER TERM, 1958, JANUARY SESSION, 1959.

No. 12439 Josephine Daviditis, also known as Josephine Davis, Stella C. Davis, and Betty Horrigan, Plaintiffs-Appellants, vs. The National Bank of Mattoon, Mattoon, Illinois, a Banking Corporation, Wayne Joseph O'Bryan, and June Alberta O'Bryan, and Ray M. Foreman, Defendants-Appellees.	Appeal from the United States District Court for the Eastern District of Illinois.
No. 12527 Josephine Daviditis, also known as Josephine Davis, Stella C. Davis, and Betty Horrigan, Petitioners, vs. Honorable Casper Platt, Judge of the United States District Court for the Eastern District of Illinois, Respondent.	Petition for Writ of Mandamus

January 22, 1959

(Appendix)

Before Duffy, Chief Judge and Parkinson and Knoch, Circuit Judges.

Duffy, Chief Judge. The complaint in No. 12439 is entitled "Complaint to Set Aside Fraudulent Conveyance Under Rule 18 (b) of CIV.P.A". The complaint was signed by the three plaintiffs pro se and apparently was prepared by them.

The same persons are petitioners in Appeal No. 12527. The first pleading filed in this Court in that case was a petition for a writ of mandamus directed to United States District Judge, Casper Platt; the second, a motion for leave to file supplemental evidence and to present confidential evidence at the hearing. These pleadings were likewise signed by the three persons listed as petitioners who are also the plaintiffs in Appeal No. 12439. The two cases were heard together in this Court, and Stella C. Davis and Betty Horrigan presented the oral arguments upon behalf of plaintiffs and petitioners.

This is the third time that these plaintiffs have invoked the jurisdiction of this Court in controversies growing out of the same general complaints which plaintiffs now bring before us. In Stella C. Davis and Betty Horrigan *v.* Ray M. Foreman and the United States of America (12/21/56) 239 F. 2d 579, plaintiffs endeavored to recover from defendants under the Federal Tort Claims Act. We decided that a claim against the United States under the Tort Claims Act was not set forth in the complaint and further pointed out that the statute of limitations had run. We also pointed out there was no diversity of citizenship between the plaintiffs and defendant Foreman, and the fact that he was or had been an assistant United States Attorney was not sufficient to invoke federal jurisdiction.

(Appendix)

This controversy came before us a second time in Josephine Daviditis, also known as Josephine Davis, Stella C. Davis and Betty Horrigan *v.* The National Bank of Mattoon, etc. (1/22/58) 251 F. 2d 299. In this action the plaintiffs alleged fraud on the part of the Bank in being appointed as Administrator of the Estate of William Daviditis, deceased. William Daviditis was the husband of Josephine Daviditis and the father of Stella C. Davis and Betty Horrigan. We held on that appeal that no sufficient showing was made that the civil rights of plaintiffs had been violated or that defendant had violated the National Banking Laws so as to give rise to a claim upon which relief could be granted to plaintiffs in a federal court. We held that the District Court was correct in dismissing the complaint for lack of jurisdiction of the subject matter.

In No. 12439 now before us, the District Court granted a motion to dismiss the complaint on the ground that it lacked jurisdiction. The complaint alleged that the federal jurisdiction was based on Title 28, §§ 1331, 1348 and 1349, and also Title 18, §§ 493, 1005 and 241. Reliance was also placed on Title 5, 139(f) and Rule 56 Federal Rules of Civil Procedure. While diversity of citizenship was not alleged, there was an allegation that the amount in controversy exceeded $3,000.00. Upon oral argument before our Court, plaintiffs asserted that federal jurisdiction was also present because the complaint alleged an interstate conspiracy; a national bank was involved, and that defendant Foreman at the time he was alleged to have defrauded plaintiffs was an assistant United States attorney.

While the cause was pending before Honorable Casper Platt at Danville, Illinois plaintiffs moved for a change in venue. The cause was thereupon transferred to Honor-

able William G. Juergens, United States District Judge, and the files transferred to East St. Louis, Illinois. Thereafter, defendants filed a motion to dismiss the action because of lack of jurisdiction. The Court granted the motion to dismiss. This appeal followed.

We agree with the District Court that the complaint alleging a fraudulent conveyance of real estate is not one that arises under the Constitution, laws or treaties of the United States within the meaning of 1331, Title 28, U.S.C.A.

We also agree that §§ 1348 and 1349, Title 28, are not applicable. The former deals with actions brought by the United States against a National Bank, and the latter pertains to corporations in which the United States owns more than half of the capital stock.

Sections 241, 493 and 1005, Title 18, U.S.C.A., pertain to criminal proceedings and, as pointed out by the District Court in no way confer jurisdiction as to the civil controversies described in the complaint. Also, § 139 (f), Title 5, U.S.C.A. provides penalties that may be assessed against persons failing to furnish required information to federal agencies. The complaint does not state a claim under this section. Also, Rule 56, Federal Rules of Civil Procedure, pertaining to summary judgments, cannot be relied on by plaintiffs to confer jurisdiction in this case.

The general claim made as to interstate conspiracy, that a national bank was involved, and that defendant Foreman was an Assistant United States Attorney during a part of the period in which plaintiffs contend a cause of action arose, do not in any way confer jurisdiction upon a federal court to hear and determine the controversy and claim set forth in the complaint.

(Appendix)

In No. 12527, the plaintiffs ask that Honorable Casper Platt be required to enter an order addressed to the National Bank of Mattoon, the Bureau of Public Debt of the Treasury Department and to others who may have access to United States Savings Bond microfilm, records and photostats, to give to plaintiffs such documents and records as they find to be necessary for photographing. The petition for mandamus is denied.

The motion in No. 12439 that this Court order an investigation of defendants-appellees and require them to show cause why they did not follow the Federal Rules of Civil Procedure in serving copies of briefs and motions for leave to dispense with printing of briefs is hereby denied.

We also note other claims and demands which the plaintiffs and petitioners have made in the two cases not before this Court, and which have not been specifically heretofore described. Each of said motions and demands is hereby denied.

The judgment of the District Court in dismissing the complaint for lack of jurisdiction is affirmed. In this connection we agree with the statement of the District Judge where he states that he can find no other section of the federal code which would grant jurisdiction in a federal court to adjudicate the cause attempted to be set forth in the complaint and, therefore, no permission to amend the complaint should be granted.

AFFIRMED.

A True Copy:

Teste:

Clerk of the United States Court of Appeals for the Seventh Circuit.

APPENDIX B.

83 In the United States District Court

(Caption—Civil No. 1612-D, EST)

ORDER

(Filed July 25, 1958)

The court having read the defendants' motion to dismiss the complaint, having read the briefs in support thereof and in opposition thereto, and having heard oral arguments thereon, and being fully advised in the premises, finds that the defendants' motion to dismiss the complaint should be allowed.

It Is, Therefore, The Order of this court that the defendants' motion to dismiss the complaint be and the same is hereby allowed, and the cause of action is dismissed.

/s/ William G. Juergens
United States District Judge

Dated: July 24, 1958

84 In the United States District Court

(Caption—Civil No. 1612-D, EST)

MEMORANDUM

(Filed July 25, 1958)

The plaintiffs filed their complaint in this court entitled "Complaint to Set Aside Fraudulent Conveyance Under Rule 18(b) of the Federal Rules of Civil Procedure". The complaint alleges that jurisdiction of this cause is based on Title 28, Sections 1331, 1339, 1348 and 1349, also Title

18, Sections 493, 1005 and 241; Title 5, Section 139 (f) and Rule 56 Federal Rules of Civil Procedure, Title 28, U.S.C.A. It is further alleged that this is a suit at law arising under the Constitution and law of the United States and that the matter in controversy herein exceeds the sum of $3,000.00. Diversity of citizenship is not alleged, nor is there any diversity present in this suit since both plaintiffs and defendants are citizens and residents of the State of Illinois.

The defendants have filed their motion to dismiss on the grounds that this court lacks jurisdiction to try the cause.

In order to determine whether or not this court may proceed to try this cause, it must first discover whether or not it does in fact have jurisdiction over the cause as alleged in the complaint.

Section 1331 of Title 28 gives the Federal District Court jurisdiction over actions arising under the Constitution, laws or treaties of the United States. This section is provided for those cases where a Federal question is involved. In order to determine whether or not a Federal question is involved, the court must look to the allegations made in the complaint. A mere assertion that the cause is one arising under the Constitution and Laws of the United States or involves a Federal question is insufficient, unless it further appears that the allegations contended in the complaint bring it within that status. An examination of the complaint shows that this is a suit to set aside an alleged fraudulent conveyance of real estate. This alone is insufficient to provide this court with jurisdiction. It does not appear that the cause of action alleged in the complaint is one that arises under the Constitution, laws or treaties of the United States within the meaning of Section 1331 of Title 28, U.S.C.A.

(Appendix)

Section 1339 of Title 28 provides jurisdiction to Federal District Court in civil causes of action arising under an Act of Congress relating to the postal service. This complaint cannot possibly be deemed to be such cause of action.

Section 1348 of Title 28, U.S.C.A., deals with actions brought by the United States against a national bank and in no way pertains to the cause of action alleged by this complaint.

Section 1349, Title 28, U.S.C.A., pertains to actions brought against a corporation or corporations in which the United States owns more than ½ of the corporate stock. That is not this case.

86 Rule 56 of the Federal Rules of Civil Procedure, Title 28, U.S.C.A., pertains to summary judgment. Rule 56 does not provide jurisdiction to a court, but rather may only be utilized when the court otherwise has jurisdiction.

Sections 241, 493 and 1005 of Title 18, U.S.C.A., relate to criminal proceedings and, therefore, do not in any way confer jurisdiction to this court under the cause of action here asserted.

Section 139 (f) of Title 5, U.S.C.A., provides penalties that may be assessed against persons for failing to give required information to Federal agencies. This cause does not pertain to information which is required to be furnished to Federal agencies and thus does not constitute a basis for jurisdiction of the cause of action.

The court has examined the statutes relied upon by the plaintiffs to show jurisdiction and has further studied the complaint to find if there is any other provision under the United States Code whereby this court may assume jurisdiction herein. This search, however, has been in vain.

Nowhere in the United States Code has this court been able to find any basis whereby it may assume jurisdiction of this cause. The court must, therefore, dismiss the complaint and the cause of action stated therein for lack of jurisdiction.

/s/ William G. Juergens
United States District Judge

Dated: July 24, 1958.

74 IN THE UNITED STATES DISTRICT COURT

(Caption—Civil No. 1612-D)

ORDER

(Filed June 4, 1958)

Now comes the plaintiff, Stella C. Davis, on behalf of all the plaintiffs in the above entitled cause, and moves the court for change of venue. The court has examined the petition and the same is allowed.

The file is transferred to Honorable William G. Juergens. The Clerk is authorized to forward the file to East St. Louis, Illinois. It Is So Ordered.

Entered this 4th day of June, 1958.

/s/ Casper Platt
United States District Judge

Complete Files mailed to the East St. Louis, Illinois Office of the United States District Court Clerk this 4th day of June, 1958.

D. H. Reed, Clerk

by /s/ Verna Peck
Deputy Clerk